IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4238 OF 2006

Vasant Chandulal Lodha .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.Naveen Chomal for applicant

Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 11th December 2006

P.C.

. Mr.Chomal has invited my attention to para 2 of the application so also para 6 of the order of the Additional Sessions Judge on

Anticipatory Bail application preferred before him. Mr.Chomal submits that there is no privity of contract insofar as institution/society and the applicant. In fact, the loan was availed by one Mr.Morris and out of the loan amount, he has repaid the debt of Rs.50,000/- of the present applicant. However, as far as the outstanding amount of M/s.Vijay Marketing is concerned, applicant admits that he is guarantor in respect thereof and in the event of Vijay Marketing defaulting, applicant would have no objection in Administrator proceeding against him and recovering amounts due and payable in accordance with law. The applicant states that he would execute written undertaking infavour of Administrator within a period of 10 days from today stating therein the amount due and payable along with interest till date so also undertaking that till such amount is repaid with interest in full, the applicant herein would not alienate, encumber or part with possession so also create

third party rights in respect of his immovable property.

2. Learned A.P.P. does not dispute that there is no privity of contract, save and except loan of M/s.Vijay Marketing, between the applicant and society. He further submits that there is personal guarantee executed but does not dispute that undertaking, if filed, the amount could be secured. In such circumstances, applicant deserves to be granted pre-arrest bail. Hence following order:-

i) In the event of the arrest of the applicant in connection with C.R.No.271 of 2006 registered with Panchavati Police Station now transferred to EOW, Crime Branch the applicant shall be enlarged on bail in the sum of Rs.50,000/- with one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicant to forthwith surrender his passport, if any, to the I.O. Applicant shall not leave Nashik city without prior permission of trial court. The applicant shall report to E.O.W.Crime Branch, Nashik once a week on every Monday between 11.00 a.m. and 1.00 p.m. till the charge sheet is filed and thereafter as directed by the trial court till conclusion of trial.

iii) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/

investigating agency. The applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)